

SENATE BILL NO. 191

INTRODUCED BY L. JENT

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ALL COURTS OF ORIGINAL JURISDICTION TO IMPOSE A USER SURCHARGE IN CRIMINAL, CIVIL, AND PROBATE CASES; PROVIDING THAT THE SURCHARGE MUST BE RETAINED BY AND USED BY LOCAL GOVERNMENTS ONLY FOR THE PAYMENT OF COSTS FOR COURT SECURITY NEEDS; AMENDING SECTIONS 61-8-460, 61-8-725, AND 61-13-104, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. User surcharge for court security. (1) Except as provided in subsection (2), all courts of original jurisdiction shall impose:

(a) on a defendant in criminal cases, a \$10 user surcharge upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail;

(b) on the initiating party in civil and probate cases, a \$10 user surcharge at the commencement of each action, proceeding, or filing; and

(c) on each defendant or respondent in civil cases, a \$10 user surcharge upon appearance.

(2) If a court determines that a defendant in a criminal case is unable to pay the surcharge or determines pursuant to 25-10-404 that a party in a civil case is unable to pay the surcharge, the court may waive payment of the surcharge imposed by this section.

(3) The surcharge imposed by this section is not a fee or fine and must be imposed in addition to other taxable court costs, fees, or fines. The surcharge may not be used in determining the jurisdiction of any court.

(4) The amounts collected under this section must be deposited with the finance officer or treasurer of the local government under which the court operates as follows:

(a) if a municipal court or city court is the court of original jurisdiction, the money must be deposited with the city or town finance officer or treasurer;

(b) if a district court or justice's court is the court of original jurisdiction, the money must be deposited with the county finance officer or treasurer;

(c) if the court of original jurisdiction is a court within a consolidated city-county government within the

1 meaning of Title 7, chapter 3, the money must be deposited with the finance officer or treasurer of the
2 consolidated government.

3 (5) (a) A city or town finance officer or treasurer shall retain the money collected under this section by
4 a municipal court or a city court and deposit the money in a court security fund. The fund may be used only for
5 the payment of costs for court security needs as provided in [section 2] for the municipal court or a city court.

6 (b) Each county finance officer or treasurer shall retain the money collected under this section by district
7 courts and justices' courts and deposit the money in a court security fund. The fund may be used only for the
8 payment of costs for court security needs as provided in [section 2] for the district courts and justices' courts.

9 (c) Each finance officer or treasurer of a consolidated city-county government shall retain the money
10 collected under this section by courts within the consolidated government and deposit the money in a court
11 security fund. The fund may be used only for the payment of costs for court security needs for the courts. Money
12 in the court security fund must be accounted for separately for each type of court by which it is collected and may
13 be used only to fund court security needs as provided in [section 2] for that type of court.

14
15 **NEW SECTION. Section 2. Court security fund.** (1) A local government finance officer or treasurer
16 shall establish a fund to be known as the court security fund and shall deposit into the fund the amounts collected
17 under [section 1].

18 (2) Money in a court security fund may be used only to finance security needs for district, justices', city,
19 or municipal courts. Permissible security needs include:

20 (a) security personnel; and

21 (b) items used for the purpose of providing security services for buildings that house a court, including:

22 (i) the purchase and repair of x-ray machines and conveying systems;

23 (ii) handheld metal detectors;

24 (iii) walk-through metal detectors;

25 (iv) identification cards and systems;

26 (v) electronic locking and surveillance equipment;

27 (vi) deputy sheriffs or police officers;

28 (vii) signs;

29 (viii) confiscated weapon inventory and tracking systems;

30 (ix) locks, chains, alarms, or similar security devices;

- 1 (x) the purchase or repair of bulletproof glass;
- 2 (xi) continuing education on security issues for court personnel and security personnel; and
- 3 (xii) any other security measure approved by the governing body.
- 4 (3) The governing body shall consult the judges, justices, or magistrates of the courts in which the money
- 5 is collected when determining court security needs for those courts.

6

7 **SECTION 3. SECTION 61-8-460, MCA, IS AMENDED TO READ:**

8 **"61-8-460. Unlawful possession of open alcoholic beverage container in motor vehicle on**

9 **highway.** (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of an

10 open alcoholic beverage container in a motor vehicle if the person knowingly possesses an open alcoholic

11 beverage container within the passenger area of a motor vehicle on a highway.

12 (2) This section does not apply to an open alcoholic beverage container:

- 13 (a) in a locked glove compartment or storage compartment;
- 14 (b) in a motor vehicle trunk or luggage compartment or in a truck bed or cargo compartment;
- 15 (c) behind the last upright seat of a motor vehicle that is not equipped with a trunk;
- 16 (d) in a closed container in the area of a motor vehicle that is not equipped with a trunk and that is not
- 17 normally occupied by the driver or a passenger; or
- 18 (e) in the immediate possession of a passenger:
- 19 (i) of a motor vehicle, including a bus, taxi, or limousine, that is used for the transportation of persons
- 20 for compensation and that includes the provision of a hired driver; or
- 21 (ii) in the living quarters of a camper, travel trailer, or motor home.

22 (3) (a) A person convicted of the offense of unlawful possession of an open alcoholic beverage container

23 in a motor vehicle shall be fined an amount not to exceed \$100.

24 (b) A violation of this section is not a criminal offense within the meaning of 3-1-317, 3-1-318, [section

25 1], 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and may not be recorded or charged against a driver's record,

26 and an insurance company may not hold a violation of this section against the insured or increase premiums

27 because of the violation. The surcharges provided for in 3-1-317, 3-1-318, [section 1], and 46-18-236 may not

28 be imposed for a violation of this section."

29

30 **SECTION 4. SECTION 61-8-725, MCA, IS AMENDED TO READ:**

"61-8-725. Penalty for violation of speed limits -- no record for certain violations. (1) A person

violating the speed limit imposed pursuant to 61-8-303 shall be fined in accordance with the following schedule:

Amount of Fine	MPH in Excess of Speed Limit
\$ 20	1 - 10 (daytime)
20	1 - 10 (nighttime)
40	11 - 20
70	21 - 30
100	31+

(2) A violation of a speed limit imposed pursuant to 61-8-303 is not a criminal offense within the meaning of 3-1-317, [section 1], 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and, except as provided in subsection (4), may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of a speed limit against the insured or increase premiums because of the violation if the speed limit is exceeded by no more than:

(a) 10 miles an hour during the daytime; or

(b) 5 miles an hour during the nighttime.

(3) The surcharge provided for in 3-1-317 or [section 1] may not be imposed for a violation of 61-8-303.

(4) The recordkeeping restrictions provided in subsection (2) with respect to a person's driving record do not apply to a speed limit violation or conviction that was committed by:

(a) a Montana resident in another state whose violation or conviction was reported to the department by a court or the licensing authority in the state in which the violation occurred; or

(b) a person who holds a commercial driver's license regardless of whether or not the violation occurred while the person was operating a commercial motor vehicle."

SECTION 5. SECTION 61-13-104, MCA, IS AMENDED TO READ:

"61-13-104. Penalty -- no record permitted. (1) A driver who violates 61-13-103 shall be fined \$20, but the violation is not a misdemeanor pursuant to [section 1], 45-2-101, 46-18-236, 61-8-104, or 61-8-711. A violation of 61-13-103 may not be counted as a moving violation for purposes of suspending a driver's license under 61-11-203(2)(m). Bond for this offense is \$20, and a jail sentence may not be imposed.

(2) A violation of 61-13-103 may not be recorded or charged against the driver's record of a person violating 61-13-103.

(3) An insurance company may not hold a violation of 61-13-103 against the insured or increase the insured's premiums due to a violation of 61-13-103."

NEW SECTION. **Section 6. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 3, chapter 1, part 3, and the provisions of Title 3, chapter 1, part 3, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 7, chapter 6, part 40, and the provisions of Title 7, chapter 6, part 40, apply to [section 2].

NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2009.

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